

AMENDED IN ASSEMBLY APRIL 26, 2007

AMENDED IN ASSEMBLY APRIL 18, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 690

Introduced by Assembly Member Jones

February 21, 2007

An act to add Sections 745 and 746 to the Public Utilities Code, relating to water corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 690, as amended, Jones. Water corporations: rates.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including water corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

This bill would prohibit the rates of a water corporation from exceeding the amount necessary to recover the reasonable expenses incurred to provide water service and a reasonable return on capital invested by the water corporation and its shareholders for service to the public. The bill would, *except as otherwise provided in the bill*, prohibit a water corporation from recovering in rates, a return on expenses required to provide water service, or from recovering a return on funds or facilities provided by developers, public agencies, or ratepayers.

The bill would require, if a water corporation receives monetary compensation for damage resulting from contamination of the utility's water supply, that the commission require the utility to equitably allocate the compensation between the ratepayers and ~~investors of the utility~~

~~and to require the utility to invest the monetary compensation in a replacement source of water supply or other means of mitigating the contamination to the extent necessary to meet current and future needs of its customers~~ *the water corporation so that both the ratepayers and the water corporation are returned to the same financial position each occupied before the contamination occurred.* The bill would require the commission to require the utility to allocate compensation to reduce the cost to ratepayers of any replacement water supply required as a result of the contamination, to the extent ratepayers have paid for the water supply damaged by the contamination, in whole or in part, through the depreciation expense included in water utility rates. The bill would authorize the commission to allow a water corporation to include in the rate base of the utility, that portion of the proceeds invested in a replacement source of water supply as is necessary to restore the utility's book value for any reduction resulting from the contamination.

(2) Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) It is the existing policy of the state that rates and charges
- 4 established by the Public Utilities Commission for water service
- 5 provided by water corporations provide revenues and earnings
- 6 sufficient to afford the utility an opportunity to earn a reasonable
- 7 return on its used and useful investment, to attract capital for
- 8 investment on reasonable terms, to ensure the financial integrity

1 of the utility, and to minimize the long-term cost of safe and
2 reliable water service to water customers.

3 (b) It is a basic principle of ratemaking to establish rates that
4 permit the utility to recover its costs and expenses plus a reasonable
5 return on the value of property devoted to public use. ~~Thus, the~~
6 ~~profit of the utility is calculated solely on the rate base, which is~~
7 ~~the capital contributed by its investors and the utility is not entitled~~
8 ~~to earn an additional profit on its expenses or on funds or facilities~~
9 ~~contributed to the utility by developers, public agencies, or~~
10 ~~customers. use.~~

11 (c) The Public Utilities Commission has not, however, been
12 consistent in following these basic principles of ratemaking and
13 has recently authorized a water corporation to increase its ~~rate base~~
14 *total rate base solely* as a result of the receipt of funds that were
15 not provided by the utility's investors.

16 (d) Permitting water corporations to earn a return on ~~funds that~~
17 ~~were not contributed by the utility's investors, but capital~~
18 ~~investments that were not contributed by the utility's investors or~~
19 ~~as part of an agreement to replace capital investments that were~~
20 ~~damaged as a result of contamination or action of a third party,~~
21 ~~but which were instead contributed by developers, public agencies,~~
22 ~~or the water corporation's customers, is inconsistent with state~~
23 ~~policy and basic principles of ratemaking.~~

24 SEC. 2. The Legislature further finds and declares all of the
25 following:

26 (a) Groundwater contamination has caused water corporations
27 to abandon wells *from which the water corporation was still*
28 *earning a rate of return* that have been substantially paid for by
29 the utility's ratepayers through depreciation costs included in the
30 utility's rates. Many of these wells would have provided many
31 additional years of safe, reliable, and economical water supply but
32 for the contamination.

33 (b) Groundwater contamination has also required many water
34 corporations to develop new sources of water supply that are much
35 more costly than the water that was supplied by the abandoned
36 wells.

37 (c) Many water corporations that have abandoned wells as a
38 result of groundwater contamination have as a result of claims or
39 litigation, obtained compensation for the damage resulting from

1 the contamination from insurers and the parties responsible for the
2 contamination.

3 (d) In those situations where an abandoned well has been paid
4 for in whole or substantial part by the ratepayers of the water
5 corporation, in fairness, the proceeds of any claim or litigation
6 should be wholly or substantially allocated to reducing the costs
7 to be charged to ratepayers for cleanup of the contamination and
8 for any replacement source of water that may be required as a
9 result of the contamination.

10 (e) The Public Utilities Commission has failed to establish a
11 clear or consistent policy or practice to equitably allocate funds
12 received by a water corporation in compensation for groundwater
13 contamination received from insurers and responsible third parties.

14 (f) It is the policy of this state that to the extent possible, in
15 allocating compensation received by a water corporation in
16 compensation for damage to a source of water supply, that ~~both~~
17 ~~the ratepayers and the shareholders~~ *ratepayers* of the water
18 corporation should be returned to the same financial position ~~each~~
19 ~~was they were~~ in before the contamination occurred.

20 SEC. 3. Section 745 is added to the Public Utilities Code, to
21 read:

22 745. (a) The rates of a water corporation shall not exceed the
23 amount necessary to recover the reasonable expenses incurred to
24 provide water service and a reasonable return on capital invested
25 by the water corporation and its shareholders for service to the
26 public. The commission may authorize a water corporation to
27 retain and reinvest earnings and to earn a rate of return on
28 reinvested capital.

29 (b) No water corporation shall recover in rates, a return on
30 expenses required to provide water service.

31 (c) ~~No-Except as provided in Section 746, no~~ water corporation
32 shall recover in rates, a return on funds or facilities, ~~including~~
33 ~~derived from~~ contributions, advances, loans, and grants provided
34 by developers, public agencies, or ratepayers.

35 SEC. 4. Section 746 is added to the Public Utilities Code, to
36 read:

37 746. (a) If a water corporation receives monetary compensation
38 for damage resulting from contamination of the utility's water
39 supply, the commission shall require the utility to equitably allocate

1 the compensation between the ratepayers and investors of the
2 utility.

3 ~~(b) If a water corporation receives monetary compensation for~~
4 ~~damage to the utility's equipment or facilities as a result of~~
5 ~~contamination, to the extent that ratepayers have paid for the water~~
6 ~~supply damaged by the contamination, in whole or in part, through~~
7 ~~the depreciation expense included in water rates, the commission~~
8 ~~shall require the utility to allocate compensation to reduce the cost~~
9 ~~to the ratepayers of any replacement water supply required as a~~
10 ~~result of the contamination.~~

11 *the water corporation so that both the ratepayers and the water*
12 *corporation are returned to the same financial position each*
13 *occupied before the contamination occurred.*

14 (e)

15 (b) If a water corporation receives monetary compensation for
16 damage resulting from contamination of the utility's water supply,
17 the commission shall require the utility to invest the monetary
18 compensation in a replacement source of water supply or other
19 means of mitigating the contamination to the extent necessary to
20 meet the current and future needs of its customers. No water
21 corporation shall include in rates, the proceeds invested in a
22 replacement source of water supply except to the extent necessary
23 to restore the utility and its ratepayers to the same financial
24 condition they would have been in but for the contamination.

25 ~~(d) Notwithstanding subdivision (e)~~

26 (c) *Notwithstanding subdivision (b)*, the commission may allow
27 a water corporation to include in the rate base of the utility, that
28 portion of the proceeds invested in a replacement source of water
29 supply as is necessary to restore the utility's book value for any
30 reduction resulting from the contamination.

31 SEC. 5. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within
38 the meaning of Section 6 of Article XIII B of the California
39 Constitution.

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2	CORRECTIONS:	_____
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